DETAILED ACTION

REASONS FOR ALLOWANCE

1. Claims 20-34 are allowed.

2. The following is an examiner's statement of reasons for allowance:

The closest prior art of record does not teach, suggest or disclose a process for measuring and controlling the circulation of fluids in endoscope channels as set forth in independent claim 20, comprising:

coupling the endoscope channels to a hermetic chamber through a tank, wherein said hermetic chamber is equipped with a high and low level sensor;

filling the hermetic chamber and saturating the tank and the inlet channels of the endoscope with a fluid by a circulation pump located upstream of the hermetic chamber; and

controlling and recording a time for fluid flow in the hermetic chamber from a high level position to a low level position, and confirming that the fluids are circulated to each portion of each channel of the endoscope to ensure that the inlet channels are properly coupled to the hermetic chamber and that none of the channels are closed.

Pfeifer (U.S. Patent No. 5,738,824) discloses a process for determining the penetrability of fluids through endoscope channels comprising;

Placing the endoscope into a tank (40) and coupling the channels of the endoscope to a chamber (47) having one or more valves;

Filling the chamber and valves to saturate the tank and the inlet channels of the endoscope of a fluid; and

Determining that the fluids are circulating to the channels of the endoscope based on a penetrability test (column 3, lines 5-30). Pfeifer does not disclose that the chamber is a hermetically sealed chamber equipped with a low level sensor and a high level sensor, wherein the fluid that flows under pressure in the hermetic chamber from a designated high level position to a low level position is controlled and recorded in order to confirm that the fluids are circulating to each portion of each channel of the endoscope to ensure that the inlet channels are properly coupled, and that none of the channels are closed. Pfeifer also does not disclose a circulation pump arranged upstream of the chamber that is utilized to fill said tank and the inlet channels of the endoscope, and to agitate the contents of the tank.

Graf (U.S. Patent No. 5,494,530) discloses a method for controlling the circulation of fluids in endoscope channels comprising coupling one or more inlet channels to a hermetic chamber and controlling and recording the pressure in the chamber to determine if leaks are present in the apparatus (column 4, lines 43-55). Among other things, Graf does not disclose that the chamber is equipped with a low level sensor and a high level sensor, wherein the fluid that flows under pressure in the hermetic chamber from a designated high level position to a low level position is controlled and recorded in order to confirm that the fluids are circulating to each portion of each channel of the endoscope, and that none of the channels are closed.

Therefore, the closest prior art of record, namely Pfeifer (U.S. Patent No. 5,738,824) in view of Graf (U.S. Patent No. 5,494,530) does not teach, disclose, or suggest a method for measuring and controlling the circulation of fluids in endoscope channels comprising placing the endoscope into a tank and coupling the channels to a hermetically sealed chamber that includes a high level sensor and a low level sensor, wherein the chamber and channels are saturated by a pump located upstream of the chamber; **and controlling and recording a time for the fluid to flow from a high level position to a low level position in the hermetic chamber to confirm that the fluids are circulating to each endoscope channel, and that none of the channels are closed**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

3. Applicant's arguments filed February 12, 2009 have been fully considered but they are not persuasive.

The Applicant argues that the withdrawn independent claim 35 has been amended to include the special technical feature recited in allowable independent claim 20. Accordingly, Applicants request that the Examiner consider the merits of claims 35-39 and indicate that these claims too, are allowable over the prior art of record.

It is first noted that the Restriction requirement was made FINAL in the Office Action filed on November 12, 2008. However a further explanation of the restriction on the merits is set forth below.

The distinct special technical feature of independent claim 20 concerns the process step of controlling and recording a time for a fluid flow under pressure within the hermetic chamber to travel from the high level position to the low level position when at least one of the valves is open to at least a respective one of the one or more inlet channels; and confirming that the fluids are circulating in each portion of each channel of the endoscope, that the at least respective one of the one or more inlet channels are properly coupled to the at least one of the valves, and that none of the respective one or more channels are closed. Since this process step is an intended use recitation, that is given patentable weight in a process claim, then it is a special technical feature that defines the invention as a whole over the prior art of record. Withdrawn claims 35-39 are directed to an apparatus for substantially carrying out the process of claim 20. However, The Manual of Patent Examining Procedures specifically states that, "while the features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function" as well as, "a claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim." (MPEP 2114 [R-1]). As such, the process step of controlling and recording, which is the special technical feature of claim 20, is an

intended use recitation in an apparatus claim which does not differentiate it from a prior art apparatus. Therefore, the restriction is proper as set forth above.

Cancellation of Withdrawn Claims

4. This application is in condition for allowance except for the presence of claims 35-39 directed to an invention non-elected with traverse in the reply filed on July 21, 2008. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCJ

/Sean E Conley/
Primary Examiner, Art Unit 1797